IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE B.PRAKASH RAO
WRIT PETITION NO: 11135 of 2004

Between:
Smt. U.S.S. Nirmala W/o. Y.N. Johnson
r/o.Yellanur Village, Yellanur Mandal, Anantapur District.
..... PETITIONER

AND

1 The Joint Collector, Anantapur.
2 The Revenue Divisional Officer, Anantapur.
3 The M.R.O., Yellanur Mandal, Anantapur District.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus or any other appropriate writ or direction declaring the action of the 3rd respondent in not releasing the essential commodities even though the authorization granted to the petitioner vide proceedings in Rc.No.D1/CS/382/2002 dt.20.3.2002 is in force as illegal arbitrary and consequently direct the respondent No.3 to release the essential commodities to the petitioner for distribution to the card holders .

Counsel for the Petitioner: MR.O.MANOHER REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court made the following:

THE HONOURABLE SRI JUSTICE B. PRAKASH RAO
WRIT PETITION NO. 11135 OF 2004

ORDER:-

Heard both the learned counsel and at their request, the writ petition itself is taken up for disposal.

Petitioner herein, who is a Fair Price Shop dealer, filed this writ petition, inter alia, challenging the action of third respondent herein in not releasing essential commodities in spite of the fact she holds Fair Price Shop Dealership.

The case of the petitioner is that the petitioner has been given authorization and since then he has been running the business. However, now at the instance of third respondent herein, without any notice or without passing any orders of suspension or cancellation of her license an order was given to stop the supply of essential commodities to the petitioner's shop, which is wholly unauthorized and is also one without any notice or enquiry. Hence, the writ petition.

In the counter-affidavit filed on behalf of the respondents, it is stated that it is only due to complaints received from the card-holders in 'Mythri Sadassu', which was conducted by the Police Department and brought to the notice of third respondent herein, such action has been taken. Hence there is no illegality in passing the impugned order.

Considering the submissions made on either side and on perusal of the material on record, the short question involves in this writ petition is whether in the absence of any proper proceedings as contemplated

under law, respondents have any authority to stop the supply of essential commodities to the petitioner's shop?

There is no dispute that the petitioner is having valid license and that no orders of suspension or final orders of cancellation of the license of the petitioner. The only ground on which the learned counsel for the respondents sought to sustain the impugned order is that in view of the complaints received at Mythri Sadassu, at the instance of Police Department, supply of essential commodities to the petitioner's shop was stopped. There is no provision either under the Essential Commodities Act or the relevant Control Order to have a say either by the Police Department or Mandal Revenue Officer as such. If there are any serious allegations against the petitioner, the respondents could have taken the action of suspension or enquiry and ultimately could have been passed, without which stoppage of supply of essential commodities is not sustainable. The respondents have no power to stop the supply of essential commodities to the petitioner without any enquiry or orders.

Accordingly, this writ petition is allowed and the impugned order is set aside. No costs.

17—09—2004.

Stv/-

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the 17th day of September, Two thousand and four.

REGISTRAR

To

1 The Joint Collector, Anantapur.
2 The Revenue Divisional Officer, Anantapur.
3 The M.R.O., Yellanur Mandal, Anantapur District.
4 Two C.Cs. to G.P. for Civil Supplies, High Court Buildings, High Court of A.P., Hyderabad.
5 Two C.D. Copies.